

Filed in Clay District Court

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## IN THE DISTRICT COURT OF CLAY COUNTY, NEBRASKA

LARRY SHAW,  
Plaintiff,

vs.

COLUMBIA CASUALTY COMPANY,  
Defendant.

CASE NO. CI17-

COMPLAINT

COMES NOW the Plaintiff, LARRY SHAW, and for each cause of action against the Defendant COLUMBIA CASUALTY COMPANY, states and alleges as follows:

1. Plaintiff is a resident of Glenvil, Clay County, Nebraska.
2. Defendant, Columbia Casualty Company, is an Illinois company and is authorized to do business in the State of Nebraska.
3. This matter is filed in Clay County as the facts and circumstances that give rise to this cause of action all occurred in Clay County, Nebraska.

## First Cause of Action

4. This action is brought pursuant to Neb. Rev. Stat. §25-21,149 et. seq. for the purpose of having this Court declare the rights, status, and other legal relations among the parties to this case.
5. Plaintiff filed a Complaint against Deseret Health Group and Rose Brook Care Center on November 21, 2014 in Clay County District Court, Case #CI14-86, with a demand for an unspecified amount in general damages.
6. Plaintiff's Complaint in CI14-86 alleged intentional infliction of emotional distress and negligent infliction of emotional distress.
7. Defendant originally retained an attorney to provide a defense on behalf of Deseret Health Group and Rose Brook Care Center, but during the course of litigation, opted to allow that attorney to withdraw at which time Deseret Health Group and Rose Brook Care Center ceased all efforts of defending themselves in CI14-86.
8. Plaintiff filed an Amended Complaint in CI14-86 on February 10, 2016, with a demand for \$100,000.00 in general damages.
9. On April 13, 2016, a Summary Judgment Order was granted in favor of Plaintiff against Deseret Health Group and Rose Brook Care Center in the amount of \$100,000.00.
10. Deseret Health Group and Defendant are parties to a contract (insurance policy) which is attached hereto, marked Exhibit "A" and incorporated herein by this reference.

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EXHIBIT

A

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11. Under the terms of the insurance policy, Defendant agreed to pay all amounts which Deseret Health Group is legally obligated to pay as damages under any act, error, or omission in the providing of professional services.
12. The insurance policy provides coverage for losses up to the policy limit of \$1,000,000.00.
13. Deseret Health Group was the owner of a nursing home, located at 106 5<sup>th</sup> St., Edgar, Clay County, Nebraska, on February 22, 2014.
14. The nursing home was a specific location covered under the insurance policy.
15. The insurance policy was in full force and effect on February 22, 2014.
16. Plaintiff has demanded payment under the policy pursuant to the Summary Judgment Order in CI14-86, but Defendant has refused to provide payment.
17. The facts, circumstances, and law require Defendant to pay \$100,000.00, plus interest and court costs to Plaintiff.
18. Pursuant to the provisions of Neb. Rev. Stat. §44-359 (Reissue 1996), Plaintiff is entitled to an award of a reasonable attorneys fee to be taxed as part of the costs of this action.

#### Second Cause of Action

19. Defendant has flagrantly and consciously acted in disregard of the Unfair Insurance Claims Settlement Practices Act, Neb. Rev. Stat. § 44-1536, in the following particulars:

- a. in failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under the policy at issue;
  - b. in not attempting in good faith to effectuate prompt, fair, and equitable settlement of Plaintiff's claim, in which liability has been determined;
  - c. in not attempting in good faith to effectuate prompt, fair, and equitable settlement of Plaintiff's claim, in which coverage and the amount of loss are reasonably clear,
  - d. in refusing to pay Plaintiff's claim without conducting a reasonable investigation;
- and

WHEREFORE, Plaintiff respectfully prays for an Order of this Court declaring and determining the rights, status and other legal obligations and entitlements pursuant to the insurance policy issued by Defendant; To declare and determine that the insurance policy was in full force and effect on February 22, 2014; to declare and determine that Defendant has violated the Unfair Insurance Claims Settlement Practices Act; and to specifically declare and determine \$100,000.00 is due and owing to Plaintiff by Defendant, under the terms of said policy as well as a reasonable attorneys fee; the costs expended by Plaintiff; and for such other and further relief as the Court deems just and equitable.

Dated this 19<sup>th</sup> day of July, 2017.

LARRY SHAW, Plaintiff

By: /s/Robert M. Sullivan  
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